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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,693	12/17/2001	Werner P. Schlecht	32164-176676	6292
7590	03/02/2004		EXAMINER	
VENABLE		GUTMAN, HILARY L		
Post Office Box 34385			ART UNIT	PAPER NUMBER
Washington, DC 20043-9998			3612	
DATE MAILED: 03/02/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/015,693	SCHLECHT ET AL.	
	Examiner Hilary Gutman	Art Unit 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 January 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6 and 8-31 is/are pending in the application.
 4a) Of the above claim(s) 16-19 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-6,8-15 and 20-31 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input checked="" type="checkbox"/> Other: <u>Appeared Drawings</u> |

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: line 10, "when extended" should be inserted after "the window shade web". Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-6, 8-15 and 20-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regard to claim 1, "seating", "connecting", and "guide" means are all recited. It should be noted that if one employs means plus function language in a claim, one must set forth in the specification and adequate disclosure showing what is meant by that language. If an applicant fails to set forth an adequate disclosure, the applicant has in effect failed to particularly point out and distinctly claim the invention as required by the second paragraph of section 112.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3612

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-2, 6, 8-9, 11-12, and 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ojima et al. in view of Olson (4,487,244).

Ojima et al. disclose a windup window shade for regulating the entry of light through a window 1, 2 into the interior of a motor vehicle, having at least one windup shaft 113 (Figure 1), seating means 11 in which the windup shaft is rotatably seated, connecting means 16, with which the seating means are connected with each other, wherein the connecting means is arranged to be attached to the motor vehicle, at least one window shade web 12, which is connected to the windup shaft with one edge, at least one pair of guide means 14, each one of which is laterally spaced from and extends at least a distance away from a corresponding side of the window shade web and each of which contains at least one guide groove (Figure 16), a traction rod 13, which is connected with an edge of the window shade web 12 remote from the windup shaft 113 and whose ends, generally 17, are guided in the guide grooves (Figure 16), and a drive mechanism 15 for moving the traction rod along the guide rails and for driving the windup shaft.

With regard to claim 2, the windup shaft is tube-shaped and contains a spring drive 112, which is part of the drive mechanism.

With regard to claim 6, the window shade web 12 has been cut to approximate the window 1, 2.

With regard to claim 8, the guide means 14 are constituted by a guide rail 14, which contains an undercut groove (Figure 16).

With regard to claim 9, the guide means 14 extend in a manner corresponding to the associated edge of the window.

With regard to claim 11, the guide rail 14 is provided with at least one continuous surface, generally an upper surface of the backwards "C" in Figure 16, whose generatrix is a straight line extending at right angles with respect to the longitudinal axis of the guide rail.

With regard to claim 12, the guide rail 14 has two surfaces, generally an upper surface and a lower surface of the backwards "C" in Figure 16, which are parallel to each other and whose generatrices are straight lines extending at right angles with respect to the longitudinal axis of the guide rail.

With regard to claim 21, the traction rod 13 consists of a center piece 131 and two end pieces 132, which can be moved in a telescope-like manner in relation to the center piece, wherein ends 17 of the end pieces are displaceably movable in the respective guide rail.

For claim 22, the drive mechanism 15 has at least two drive members 18a, 18b, which are arranged drivingly between an electric drive motor 20 and the traction rod 13.

For claim 23, the drive members 18a, 18b, are thrust members.

With regard to claim 24, the drive members are linearly-shaped members.

With regard to claim 25, the drive members have teeth on their exterior circumferential surface, generally of the rack and pinion type.

For claim 26, the drive mechanism has a gear motor 20, on whose output shaft a gear wheel 19 is seated, which acts together in an interlocked manner with the drive members 18a-b.

Ojima et al. disclose the guide means being indirectly connected, at least in sections, with the seating means and the connecting means.

Ojima et al. lack the guide means being connected to the seating and connecting means to constitute a “pre-assembled” component prior to being attached to a body of the motor vehicle.

Olson (4,487,244) teach a windup window shade 10 for regulating the entry of light through a window, having at least one windup shaft 30, seating means 40, 42 in which the windup shaft is rotatably seated, connecting means 52, with which the seating means are connected with each other, at least one window shade web 12, which is connected to the windup shaft with one edge, wherein the seating means 40, 42 and connecting means 52 constitute a pre-assembled component prior to being attached to a window. Specifically, the apparatus may be provided as a pre-assembled unit so as to readily mountably at a window (Col 4, lines 15-21).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a pre-assembled component as taught by Olson for the guide means, seating means, and connecting means of Ojima et al. in order to quickly and easily install the components in the vehicle.

7. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ojima et al., as modified, and as applied to claim 22 above, and further in view of DE ‘966.

Ojima et al., as modified, lack guide tubes extending from the drive motor as far as an end of a respective guide rail.

DE '966 teach guide tubes 6, 7 for drive members 8, 9 which inherently extend from a drive motor 11 (Figures 10, 11, and 12) to an end of a guide rail 27 (Figure 4). \

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided guide tubes as taught by DE '966 upon the drive members of Ojima et al., as modified, in order to protect the drive members.

Allowable Subject Matter

8. Claims 3-5, 10, 13-15, 20, and 28-31 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. However, some arguments warrant a response set forth below.

With regard to the specification, the changes obviate the objections.

With regard to the claim objections, claim 1 still contains a minor informality but would be easily overcome if amended as suggested.

With regard to the 112 second paragraph rejection, the applicant states that the seating means, connecting means, and guide means, have adequate disclosure in the specification but has not pointed to specific locations to support this statement. The rejection is hereby maintained.

With regard to the prior art rejections, the arguments have been considered but are moot in view of the new ground(s) of rejection set forth above.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 703-305-0496.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1134.

13. Any response to this final action should be mailed to:

Box AF
Assistant Commissioner for Patents
Washington, D.C. 20231

or faxed to:

(703) 872-9327, (for formal communications; please mark "EXPEDITED PROCEDURE")

or:

(703) 746-3515, (for informal or draft communications, please clearly label "PROPOSED" or "DRAFT").



2/25/04

D. GLENN DAYOAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600